

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION**

**IN RE:
LACY HARRIS**

DEBTOR

)
)
) **CASE NO. 06-01737-5-ATS**
) **CHAPTER 13**
)

**MOTION FOR RELIEF FROM AUTOMATIC STAY OR IN THE
ALTERNATIVE ADEQUATE PROTECTION
{No Protest Motion Pursuant to 11 U.S.C. § 362}**

COMES NOW Chase Home Finance, LLC (hereinafter “Movant”), a secured creditor in the above-captioned case, by and through counsel, Brock & Scott, PLLC, and moves this Court to enter an order granting its request for relief from the automatic stay imposed by 11 U.S.C. § 362(a) on the following grounds:

1. On October 29, 2006, the Debtor, Lacy Harris, filed a petition with the Bankruptcy Court for the Eastern District of North Carolina under Chapter 13 of Title 11 of the United States Code. John F. Logan of Raleigh, North Carolina was appointed Trustee.

2. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 1334 and 157.

3. The Debtor holds title to the real property (hereinafter “Collateral”) described in that Deed of Trust recorded in the Wake County Register of Deeds in Book 7024 at Page 0657 and recorded on June 13, 1996 (hereinafter “Deed of Trust”) with an address of 5412 Baywood Forest Drive, Knightdale, North Carolina 27545. A copy of the Deed of Trust is attached hereto and is incorporated herein as Exhibit “A”.

4. Movant holds a Promissory Note secured by the Deed of Trust from the Debtor in the original principal amount of \$22,500.00 and dated June 5, 1996 (hereinafter “Note”). A copy of the Note is attached hereto and incorporated herein as Exhibit “B”.

5. The Debtor has scheduled the value of the Collateral at \$116,000.00.

6. Upon information and belief, the approximate payoff due and owing to Movant as of February 25, 2009 is \$10,230.92.

7. Upon information and belief, ABN AMRO Mortgage is the holder of a first lien deed of trust in the amount of \$61,901.00 on the subject property.

8. The plan requires the Debtor to make the monthly mortgage payments to Movant outside of the plan.

9. The Debtor has defaulted in the mortgage payments to be made outside of the plan. Upon information and belief, the amount of default, exclusive of fees and costs, is as follows:

3	payments @	\$	293.62	\$	880.86
	(12/08 - 2/09)				
	Total Delinquency			\$	880.86

10. As a result, Movant lacks adequate protection of its interest in the Collateral. By virtue of such lack of protection, good cause exists to lift the automatic stay imposed hereunder. Otherwise, Movant will suffer irreparable harm with respect to Movant's interest in the Collateral.

WHEREFORE, Movant prays the Court as follows:

1. Modify the Automatic Stay of Section 362(a) of the Bankruptcy Code to permit Movant to enforce its security interest in the Collateral.

2. Modify Rule 4001(a)(3) of the Bankruptcy Code so that it is not applicable in this case and so Movant may immediately enforce and implement this order granting relief from the automatic stay.

3. As an alternative to the relief prayed for above, grant adequate protection to Movant for its interest in the Collateral.

4. Grant Movant reasonable costs and attorney fees incurred in connection with this proceeding; and,

5. Grant Movant such other and further relief as the Court deems just and proper.

This 25th day of February, 2009.

Brock and Scott, PLLC

/s/ Sean M. Corcoran

Sean M. Corcoran

Attorney for Movant

Brock & Scott, PLLC

5121 Parkway Plaza Drive, Suite 300

Charlotte, NC 28217

(704) 369-0676

Bar No.: 33387

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NOTICE OF MOTION

**TO THE DEBTOR, DEBTOR'S ATTORNEY, TRUSTEE, AND ALL PARTIES IN
INTEREST**

THIS NOTICE IS HEREBY GIVEN of a Motion for Relief from Automatic Stay filed simultaneously herewith in the above-captioned case, a copy of which is attached hereto, and;

NOTICE IS FURTHER GIVEN that this motion may be allowed pursuant to U.S.C. §362 provided no response and request for a hearing is made by the parties in interest in writing to the Clerk of Court within FIFTEEN (15) DAYS from the date of this notice, and;

NOTICE IS FURTHER GIVEN that if a response and request for a hearing is filed by a party in interest named herein, in writing within the time indicated, a hearing will be conducted on the motion and response at a date and time to be later set by the Court and all parties will be notified accordingly. If no response for a hearing is timely filed, the Court may rule on the Motion ex-parte without further notice. Any party requesting a hearing shall appear at the hearing in support of such an objection or may be assessed with costs of Court.

This 25th day of February, 2009

Brock and Scott, PLLC

/s/ Sean M. Corcoran

Sean M. Corcoran

Attorney for Movant

Brock & Scott, PLLC

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CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury that he/she is over eighteen (18) years of age and that the MOTION FOR RELIEF FROM AUTOMATIC STAY and the NOTICE OF MOTION in the above captioned case were this day served upon the below named persons by mailing, postage prepaid, first class mail a copy of such instrument to each person(s), parties, and/or counsel at the addresses shown below:

Lacy Harris
5412 Baywood Forest Drive
Knightdale, NC 27545

Timothy Peterkin
Served Electronically

John F. Logan
Served Electronically

This 25th day of February, 2009.

Brock and Scott, PLLC

/s/ Sean M. Corcoran
Sean M. Corcoran
Attorney for Movant
Brock & Scott, PLLC
5121 Parkway Plaza Drive, Suite 300
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